

§112, first paragraph. Claims 45-48 have been rejected under the judicially created doctrine of double patenting as being unpatentable over claims 21-24 of U.S. Patent No. 6,334,107. Claims 25-48 have been rejected under 35 U.S.C. §103(a) as being obvious over U.S. Patent No. 5,680,305 to Apgar, IV in view of U.S. Patent No. 5,584,025 to Keithley, in view of U.S. Patent No. 6,049,781 to Forrest et al. and in view of U.S. Patent No. 5,893,091 to Hunt et al. After a careful review of the claims (as amended), it has been concluded that the rejections are in error and the rejections are therefore traversed.

2. ✓ Claims 45-48 have been rejected under 35 U.S.C. §112, first paragraph. The applicant's answer to the rejection of claims 45-48, under 35 U.S.C. §112, first paragraph, of the Response of 2/19/02 are repeated as if fully set forth herein. However, as an accommodation, the word "adapted" has been changed to "used".

3. Claims 45-48 have been rejected under the judicially created doctrine of double patenting. In response, claim 45 has been amended to further clarify the differences with the prior patent.

4. Claims 25-48 have been rejected as being obvious over Apgar, IV in view of Keithley, Forrest et al. and Hunt et al. In response, the claims have been amended to recite method steps of (and apparatus for) "providing a website for use by the real estate manager in managing the real estate unit". Support for the additional claim limitations may be found, *inter alia*, at page 5, lines 13-19.

Since none of the cited combination of Apgar, IV in view of Keithley or Forrest et al. or Hunt et al. teach or suggest providing websites or webpages for use by a real estate manager for managing a real estate unit, the combination now fails to teach or suggest each and every claim limitation, as required by MPEP §2143.03. Since the combination of Apgar, IV, Keithley, Forrest et al. and Hunt et al. fail to teach each and every claim limitation, the rejections are now believed to be improper and should be withdrawn.

It is noted next that the Examiner asserts that "Apgar lacks an explicit recitation of: 'downloading a webpage containing a set of options regarding the managing of the real estate unit from the website to the remote location . . . embedding a subroutine within the webpage activated by selection of the option that composes a message identifying a computer program within the server associated with the select option . . . even though Apgar (col. 6, ll. 30-576; and col. 15, ll 24-40)

suggests same" (Office Action of 6/11/02, page 8). As may be best understood from the Office Action, the Examiner apparently finds the suggestion at col. 6, lines 43-45 where Apgar, IV explicitly states that "The score is then communicated to a Customer of the invention by way of the display 20, printer 22 and/or telephone and/or facsimile and/or modem device". Apgar, IV makes a similar statement at col. 15, lines 36-40 in that "The communication between the two databases 14' and 24' can be accomplished through various communication networks, including cabling 32, or other means, such as modems, telephone lines and the like".

However, as would be clear to those of skill in the art, the communication of a score from the computer 18 to a customer via a modem device is suggestive of nothing more than two computers connected via a modem device. After all, as would be clear to those of skill in the art, nothing more would be required to communicate the score from the computer 18 to the customer computer other than a telephone line and a modem. As such, the only suggestion of the Internet is from the applicant's specification based upon hindsight reconstruction.

Further, Apgar explicitly states that "The invention provides . . . a method for evaluating Real Estate . . . It assumes that company decision-makers need information that links real estate to the business in a meaningful way" (Apgar, col. 3,

lines 15-39). The evaluating and provision of information to company decision makers is clearly different than "managing of the rental units".

Further, under Apgar "Score is a quantitative evaluation of a Business Entity's real estate condition" (Apgar, col. 1, lines 52-53). The "Score is generally determined by five indicators of Amount, Price, Grade, Area and Risk" (Apgar, col. 2, lines 40-41). Since Apgar is drawn to evaluation instead of management of real estate, it clearly irrelevant to the claimed invention.

Further, the output of Apgar is completely different than that of the claimed invention. For example, under Apgar "the invention provides useful information assessments to Customers as the Business Entity's business mix changes, such as when (1) competition focuses business managers' attention on cost reduction and growth-including occupancy and location; (2) re-engineering challenges assumptions including changes in real estate types (office, industrial, retail) and building grades; (3) technology improvements increase the potential for alternative locations and building types; and (4) changes in capital markets structure lead to reevaluation of real estate investments, including interest rates, real estate supply and demand, and investment rates of return" (Apgar, IV, col. 4, lines 13-24). In contrast, a person of skill in the art would

understand the output of "managing of the real estate units" to be, *inter alia*, a contract for rental or sale of a unit, such services as repair, upkeep and cleaning, rental receipts or payments made for the real estate unit's financial obligations (e.g., mortgage, taxes, assessments" (Specification, page 5, lines 1-12). Since Apgar evaluates merely by providing information, it cannot, in any real sense, control or direct a real estate unit.

The Examiner assert next that "Keithley (col. 9, ll 4-27) discloses elements that suggest 'accessing a server from a remote location . . ." and "Keithley proposes server modifications that would have applied to the method of Apgar . . . It would have been obvious . . . to add the modifications taught by Keithley to Apgar because implementation of such modifications would have provided 'a method of acquiring and displaying real estate information . . .' (see Keithley col. 4, ll. 10-25" (Office Action of 6/11/02, page 9). However, even if Keithly et al. did propose server modifications that could be applied to Apgar, IV (which it is believed that Keithley et al. could not), the Examiner has failed to provide any basis, whatsoever, for believing that Apgar, IV or Keithley are in any way relevant to the managing of a real estate unit. At best, Keithley et al. merely describes a method of displaying real estate information.

With regard to Forrest et al., the Examiner asserts that "Forrest (col. 5, ll. 10-24; FIG. 1; and FIG. 13) shows 'LAN 12 may be implemented as a distributed network . . . ' It would have been obvious . . . that LAN 12 may be implemented as a distributed network . . . ' would have been selected in accordance with 'a website of the server . . . ' because it was well known . . . that a website was associated with the Internet which is a distributed network" (Office Action of 6/11/02, page 9). As may be best understood from the nonsensical grammar, the Examiner apparently believes that implementing a LAN as a distributed system somehow suggests the Internet.

However, it is not just any distributed system referred to by Forrest et al. More specifically, Forrest et al. explicitly states that it is the LAN 12 that is implemented as a distributed system. Stated differently, the distributed system referred to in Forrest et al. is clearly a LAN. This essential fact cannot be altered by misstatements or obfuscation.

It is noted next that the term "LAN" clearly refers to a local area network. A local area network may be connected to the Internet through a gateway, but a local area network is quite different from the Internet in form and function. Further, local area networks do not have or provide websites. If the Examiner believes that LANs do have websites, then the Examiner is

respectfully requested to provide a reference that establishes such belief as fact.

The Examiner asserts next that "Forrest (col. 5, ll. 10-24; col. 2, ll. 55-67; FIG. 1 and FIG. 13) proposes website modifications that would have applied to the method of Apgar" (Office Action of 6/11/02, page 9). However, as demonstrated above, LANs do not have websites. Since LANs do not have websites, the Examiner is clearly mistaken.

Further, Forrest et al. is directed merely to relocating transferees. Since Forrest et al. is a LAN directed to relocating transferees, it is irrelevant to the invention.

With regard to Hunt et al., the Examiner asserts that "Hunt proposes webpage and subroutine modifications that would have applied to the method of Apgar . . . It would have been obvious . . . to combine the disclosure of Hunt with the teaching of Apgar because such combination would have provided means to "present the user with the option of viewing an associated webpage through the linked browser" (Office Action of 6/11/02, page 10). It is noted in this regard that the only relevance that Hunt et al. has to real estate is to be found at col. 6, line 60 to col. 7, line 6 where the Hunt et al. system is used to send real estate advertisements to the end user.

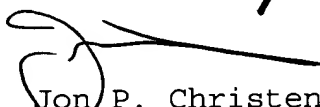
To summarize, Apgar, IV describes a system for evaluating real estate, Keithley describes displaying real estate

data, Forrest to relocating transferees and Hunt et al. to sending real estate advertisements to end users. As such, the combination of Apgar, IV, Keithley et al., Forrest et al. and Hunt et al. are simply an aggregation of elements that fail to teach or suggest each and every element of the claimed invention as required by MPEP §2143.03. Since the combination fails to teach each and every element, the rejection is believed to be improper and should be withdrawn.

5. Allowance of claims 25-48, as now presented, is believed to be in order and such action is earnestly solicited. Should the Examiner be of the opinion that a telephone conference would expedite prosecution of the subject application, he is respectfully requested to telephone applicant's undersigned attorney.

Respectfully submitted,
WELSH & KATZ, LTD.

By


Jon P. Christensen
Registration No. 34,137

December 5, 2002
WELSH & KATZ, LTD.
120 South Riverside Plaza
22nd Floor
Chicago, Illinois 60606
(312) 655-1500



Marked Up Version of Claims to Show Changes Made

25. (Once Amended) A method of managing a real estate unit by a real estate manager from a remote location, such method comprising the steps of:

providing a website for use by the real estate manager in managing the real estate unit;

6 accessing a server by the real estate manager from a remote location through [a] the website of the server provided for use by the real estate manager;

10 downloading a webpage to the real estate manager containing a set of options regarding the managing of the real estate unit from the website to the real estate manager at the remote location;

selecting at least one of the options by the real estate manager;

15 embedding a subroutine within the webpage activated by selection of the option by the manager that composes a message identifying a computer program within the server associated with the selected option;

uploading the composed message associated with the selected option from the remote location to the server; and

executing the computer program associated with the selected option within the server.

35. (Once Amended) Apparatus for managing a real estate unit by a real estate manager from a remote location, such apparatus comprising:

a website provided for use by the real estate manager in managing the real estate unit;

RECEIVED

DEC 12 2002

GROUP 3600

means for accessing a server by the real estate manager from a remote location through [a] the website of the server provided for use by the real estate manager;

means for downloading a webpage to the real estate manager containing a set of options regarding the managing of day-to-day operations directly related to use by an occupant of the real estate unit from the website to the remote location;

means for selecting by the real estate manager at least one of the options;

a subroutine activated by the means for selecting that composes a message identifying a computer program within the server associated with the selected option;

means for uploading composed message associated with the selected option from the remote location to the server; and

means for executing the identified computer programs associated with the selected option by the server.

45. (Once Amended) Apparatus for managing a real estate unit by a real estate manager from a remote location, such apparatus comprising:

a website provided for use by the real estate manager in managing the real estate unit;

a remote processor [adapted] used by the real estate manager to access a server from a remote location through [a] the website of the server provided for the real estate manager;

a website [adapted] used to download a webpage containing a set of options to the real estate manager regarding the managing of the real estate unit from the website to the remote location;

a cursor [adapted] used by the real estate manager to select at least one of the options thereby providing a selected option of the set of options;

an applet within the remote processor [adapted] used to upload an identifier of an application program associated with the selected option from the remote location to the server; and

the applications program within the server [adapted] used to execute the uploaded selected option.